In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-439

JAMIE DEAN ALEXANDER, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a non-jury trial in the United States District Court for the District of Oregon, petitioner was convicted of possessing controlled drugs in violation of 21 U.S.C. (1964 ed., Supp. V) 331(q)(3)(B); he was also convicted after a separate jury trial of receipt and concealment of stolen goods, in violation of 18 U.S.C. 2315, and conspiracy. He received concurrent one-year sentences on six drug counts and concurrent four-year terms on the stolen property and conspiracy counts. The court of appeals affirmed *per curiam* (Pet. App. A1-A6).

In this Court, as in the court of appeals, petitioner argues (1) that the seizure of the drugs was unlawful

because they were found during the execution of a search warrant describing other property; (2) that the burden of proof was improperly shifted to him to prove he had a prescription for the drugs; (3) that possession of the drugs found in his automobile could not properly be attributed to him; (4) that the trial court's instruction regarding the inference that could be drawn from possession of recently stolen goods was improper; (5) that impeachment by reference to a prior Oregon abortion-manslaughter conviction was error; and (6) that a statement by a government witness about petitioner's refusal to talk about the reason for his arrest violated his rights under the Fifth Amendment.

Each of these issues is discussed and properly rejected by the court of appeals. We rely upon its opinion in urging that the petition for a writ of certiorari should be denied.[1]

Respectfully submitted,

ERWIN N. GRISWOLD,
Solicitor General.

OCTOBER 1972.

[1] With respect to the impeachment issue, the practice followed by the Court of Appeals for the Ninth Circuit is in conformity with the Proposed Rules of Evidence for the United States Courts (Rule 609, Revised Draft, March 1971). In view of the pending adoption of uniform rules by this Court, any possible conflict among the circuits on this issue does not require resolution by this Court at the present time.

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